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18 Attorneys for Plaintiff  
19 UNITED STATES OF AMERICA

20 UNITED STATES DISTRICT COURT

21 FOR THE CENTRAL DISTRICT OF CALIFORNIA

22 UNITED STATES OF AMERICA,

23 No. CR 24-621 (B) -MWF

24 Plaintiff,

25 REPLY IN SUPPORT OF GOVERNMENT'S  
26 MOTION TO EMPANEL AN ANONYMOUS  
27 JURY

28 v.

29 DURK BANKS, et al.

30 Defendants.

31 Plaintiff United States of America hereby files its Reply in  
32 support of its Motion to Empanel an Anonymous Jury (Dkt. 235).  
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34 //

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This Reply is based upon the attached memorandum of points and authorities, the files and records in this case, and such further evidence and argument as the Court may permit.

Dated: November 10, 2025

Respectfully submitted,

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2       Juror confidentiality is just one of the security measures this  
3 Court should adopt to ensure a fair trial, prevent improper attempts  
4 to influence jurors, and to otherwise protect the judicial process.  
5 Defendants do not meaningfully grapple with the facts that support  
6 anonymity --- e.g., the violent history of defendants and their  
7 associates, OTF associates' willingness to use violence against OTF's  
8 and defendant Banks' rivals, the witness tampering that has already  
9 occurred in this case, and defendant Banks' contempt for the judicial  
10 process, including his obstruction of an investigation into his  
11 clandestine, unmonitored jail communications. Instead, defendants  
12 brush them aside as "speculation and mischaracterization," and  
13 minimize the consequences of defendants' own words and conduct.

14 (Opp. at 3.)

15       The crux of defendants' opposition is what it fails to contest  
16 or even mention: that defendant Banks instructs his willing  
17 associates to "hunt" his rivals; that defendants Banks, Wilson, and  
18 other OTF associates have already tried to influence cooperating  
19 witness testimony; and that OTF affiliates and supporters have  
20 already shown their willingness to threaten those involved in this  
21 high-profile trial. These facts strongly weigh in favor of  
22 heightened measures to safeguard the jury's fact-finding mission and  
23 secure juror safety. Moreover, defendants do not contest the  
24 well-established law that a thorough jury questionnaire and a neutral  
25 explanation for confidentiality adequately protect the right to  
26 meaningful voir dire. At bottom, withholding a limited set of juror  
27 information from both parties, coupled with Ninth Circuit-approved

1 proactive measures, are constitutionally permissible steps to ensure  
2 a safe and fair trial.

3 **I. AN ANONYMOUS JURY WILL PROTECT THE JURY'S FACT-FINDING  
4 MISSION AND ENSURE JUROR SAFETY**

5 Defendants attempt to isolate and downplay each of the  
6 non-exhaustive factors this Court considers when evaluating the need  
7 for juror anonymity. Their analysis misses the mark at each turn.

8 *First*, defendants contend that defendant Banks "has no  
9 affiliation with organized crime" and that OTF "is a record label and  
10 professional entity --- nothing more." (Opp. 8, 12.) The government  
11 does not dispute that OTF is, in part, a legitimate business  
12 operation. But OTF's and defendant Banks' public success does not  
13 contradict or undermine the material facts showing the organized  
14 nature of certain OTF associates' criminality and violence.  
15 Indeed, defendants do not contest that two shooters charged with  
16 murder in the Northern District of Illinois discussed payment from  
17 OTF and defendant Banks following the execution of a Chicago gang  
18 member<sup>1</sup> (Mot. at 9); that OTF associates --- including the defendants  
19 in this case --- act at defendant Banks' direction and with his funds  
20 to "hunt" and exact revenge on OTF's rivals (Mot. at 8); and that  
21 defendants and other OTF associates have violent criminal histories  
22 (Mot. at 6). Rather, defendants claim that these facts are too  
23 attenuated to demonstrate a risk to juror safety and impartiality.  
24 (Opp. at 9.) As explained in the government's motion, these facts  
25 demonstrate the capacity of defendants, OTF's associates and/or their

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26 <sup>1</sup> The government's opposition to defendant's motion to exclude  
27 Rule 404(b) evidence provides a more robust discussion of the  
28 defendants' and OTF's connection to organized violence, which is  
incorporated herein by reference. (See Dkt. 274.)

1 supporters to intimidate those who may pose a risk to the liberty of  
2 OTF members, including jurors who will render a verdict in this  
3 case.<sup>2</sup>

4 *Second*, defendants proclaim that there is “**no risk** of  
5 interference with witnesses and the judicial process.” (Opp. at 12)  
6 (emphasis added). But defendants fail to mention the actual  
7 interference that has occurred in this case: OTF associates’ threats  
8 to, and intimidation of, suspected government witnesses (see Mot. at  
9 11-12 in under seal filing detailing events), and defendant Banks’  
10 contempt for the judicial process as demonstrated by his obstructive  
11 conduct at the MDC (Mot. at 13). Instead of analyzing these tangible  
12 facts, defendant Banks claims that his explicit disdain for  
13 cooperating witnesses --- “I hate all rats” --- is immaterial to the  
14 Court’s analysis, since unrelated public figures have purportedly  
15 made similar comments. (Opp. at 13.) But the totality of facts  
16 presented by the government show that defendants and their OTF  
17 associates have demonstrated their willingness and capability to  
18 interfere with this trial and impair the jury’s factfinding mission.

19 *Third*, defendant’s argument that “media attention [] cannot  
20 alone justify an anonymous jury” (Opp. at 15) misconstrues the  
21 government’s argument. This Court’s analysis considers five  
22 non-exhaustive factors and is a “peculiarly context-specific  
23 inquiry.” United States v. Dinkins, 691 F.3d 358, 371 (4th Cir.  
24 2012). Both parties agree that this case has and will continue to

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25  
26 <sup>2</sup> Defendants assert that there is no risk to jurors because  
27 defendants and their OTF associates identified in the government’s  
28 motion are in custody. (Opp. at 12.) As described below, this  
contention wholly ignores the loyalty of OTF’s supporters and the  
ability of in-custody defendants to circumvent rules designed to  
monitor jail communications.

1 garner significant media attention. (Mot. at 15.) And it is  
2 undisputed that the publicity has already led to attempts to  
3 intimidate individuals connected to this case. (Mot. at 16.)<sup>3</sup> It is  
4 therefore non-speculative that defendants, their affiliates, and/or  
5 their supporters pose a risk to the integrity of the jury's  
6 factfinding mission.<sup>4</sup>

7 Finally, defendants contend that, although the protection of  
8 juror information from the public and media may be appropriate, an  
9 anonymous jury "impairs the defense's ability to conduct meaningful  
10 voir dire, undermining the right to an impartial jury under the Sixth  
11 Amendment."<sup>5</sup> (Opp. at 17.) But potential jurors do not lose their  
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13 <sup>3</sup> Defendants state they intend to file a motion to dismiss the  
14 Indictment based on the timing of the government's disclosure of the  
15 threats to the magistrate judge and an AUSA. (Opp. at 8 n.3.)  
16 Defendants' assertion that the government impermissibly withheld  
17 discoverable information from the defense is categorically false. To  
18 the extent defendants pursue this frivolous litigation, the  
19 government will provide a thorough response at that time.

20 <sup>4</sup> Defendants' citations to other high-profile cases that did not  
21 empanel an anonymous jury (Opp. at 16) similarly miss the mark. The  
22 government does not contend that the high-profile nature of this case  
23 alone warrants additional juror protection. Rather, the totality of  
24 the facts analyzed by the government in its motion support its  
25 requested measures.

26 Defendant Banks also repeatedly argues that he cannot be the  
27 source of a threat to jurors because he is in custody. The  
28 contention ignores (1) his own violations of MDC rules concerning his  
use of other inmates' PINs to make calls, and his possession and  
subsequent attempt to destroy a contraband Apple Watch with cellular  
capabilities; and (2) the fact that threats from his supporters would  
be just as damaging to the juror --- and the trial itself --- as  
threats from a defendant. Any threat will undermine the trial.  
Preventing the leaking of jurors' personal identifying information is  
a paramount concern in a case where supporters have already made  
threats to a magistrate judge and a prosecutor.

29 <sup>5</sup> Although defendants claim that the government's citation to 28  
U.S.C. § 1863 is "misplaced," numerous circuit courts have cited the  
statute as a basis to empanel an anonymous jury, see, e.g., United  
States v. Dinkins, 691 F.3d 358, 371 (4th Cir. 2012). And, in any  
event, defendants do not dispute that the Ninth Circuit has

(footnote cont'd on next page)

1 expectation of privacy when they are summoned into court. See  
2 Brandborg v. Lucas, 891 F.Supp. 352, 357 (E.D. Tex. 1995). A  
3 "determination of the relevancy of the inquiry [into juror's  
4 backgrounds] and a balancing of the competing rights [to privacy]  
5 must be performed by the court. While the parties have attorneys to  
6 champion their rights, the court must protect the privacy rights of  
7 the prospective jurors." Id. at 356. Defendants do not offer a  
8 single concrete example of how they would be prejudiced by defendants  
9 and their counsel not knowing the name and home address of a juror or  
10 the name or address of the juror's employer. Not one of these facts  
11 goes to bias or impartiality. The parties will be provided with the  
12 jurors' city and occupation, in addition to other non-identifying  
13 facts concerning the jurors, such as prior contacts with, or  
14 relationships with, law enforcement. There is no need for personal  
15 identifying information, particularly considering the use of a  
16 thorough jury questionnaire. See United States v. Barnes, 694 F.2d  
17 121, 141 (2d Cir. 1979) ("If the giving of names and addresses had  
18 been required so that investigation could have been made in the  
19 neighborhood or from their families as to their characteristics, any  
20 semblance of an impartial jury would have been destroyed. Fear of  
21 retaliation against them or members of their families would  
22 inevitably have been uppermost in their minds during the  
23 deliberations.").<sup>6</sup>

24 \_\_\_\_\_  
25 repeatedly affirmed the constitutionality of such measure, see, e.g.,  
United States v. Shryock, 342 F.3d 948 (9th Cir. 2003).

26 <sup>6</sup> Indeed, "[n]either the prosecution nor the defense has the  
27 right to have voir dire conducted in such a way as to mold the jury  
28 in a way that the jury will be receptive to counsel's case." United  
(footnote cont'd on next page)

1       Finally, defendants' counsel concede that while keeping the  
2 jurors' personal identities anonymous to the public may be  
3 appropriate, counsel should still be given access to the personal  
4 identifiers. That presents an unacceptable risk of unintended  
5 disclosure given the lack of probative value in jurors' personal  
6 information. The risk of unintended disclosure is "certainly  
7 possible in court proceedings." Brandborg, 891 F.Supp. at 354, n. 4  
8 (citing Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975)).  
9 Defendants offer no explanation of how, sitting at counsel table with  
10 their clients while conducting voir dire, they can assure that their  
11 clients will not discover the names of the jurors. Given the risk to  
12 jurors and their families, and the trial process itself, defendants  
13 present no persuasive reason for their counsel to have the names and  
14 addresses of the potential jurors.

15       **II. CONCLUSION**

16       The government respectfully requests that this Court empanel an  
17 anonymous jury to protect prospective jurors and prevent any  
18 interference with the judicial process. Specifically, the government  
19 requests that the names, addresses, and specific places of employment  
20 not be revealed to either party.

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States v. Padilla-Valenzuela, 896 F.Supp. 968, 972 (D. Az. 1995).  
25       This is because "the purpose of the voir dire is to ascertain  
26       disqualifications, not afford individual analysis in depth to permit  
27       a party to choose a jury that fits some mold that [counsel] believe  
28       appropriate to [counsel's] case." Id. (citing Schlinsky v. United  
States, 379 F.2d 735, 738 (1st Cir. 1967)).